



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 5, 2016

The Honorable Jeanie Forrester, Chair
Senate Finance Committee
State House, Room 103
Concord, NH 03301

RE: HB 1428-FN-A-LOCAL – An act establishing the clean water state revolving fund non-program fund account in the department of environmental services for the purpose of funding eligible and completed wastewater projects under the state aid grant program.

Dear Chair Forrester and Members of the Committee:

Thank you for the opportunity to comment on HB 1428-FN-A-LOCAL as amended. This bill would establish a non-lapsing account within the New Hampshire Department of Environmental Services (NHDES) entitled "Clean Water State Revolving Fund (CWSRF); Non-Program Fund Account" for the purpose of funding years one and two for eight eligible and completed wastewater projects under the state aid grant program. The established fund is to be maintained separately and not accounted for in the state's accounting system as general revenue of the state. The account is to be funded in the amount of \$825,933 from non-program funds available in the CWSRF loan management account under RSA 486:14, I(b). NHDES must file its updated CWSRF Intended Use Plan with the US EPA. Following US EPA approval of the updated plan, NHDES will start making the payments listed under Section 2 of the bill by September 16, 2016 or 45 days after approval, whichever is later. NHDES believes it is best to assume that effective from FY2018 and thereafter, these eight projects will be grouped with all other projects that are already receiving state aid grants through the General Fund. The New Hampshire Department of Environmental Services supports this bill.

The state aid grant programs for water pollution control and drinking water authorized under relevant sections of RSA 486 and 486-A, respectively, are among the most important and successful environmental programs in the state's history. Over the past 50 years, more than \$400 million in aid has been granted to eligible New Hampshire entities to help offset the cost of local environmental infrastructure projects. Many of New Hampshire's communities would have found necessary environmental infrastructure projects unaffordable were it not for state aid. It is important to note that this investment in local infrastructure has unquestionably benefited the entire state in the form of a healthy and clean environment which draws many outdoor enthusiasts to the state and helps support a statewide tourism economy.

Historically, funding for state aid grants has been made available to eligible entities through appropriations to the NHDES operating budget. As a result of budgetary constraints resulting

from the recent recession, funds for state aid grants for new projects were not appropriated for distribution by NHDES from November 2008 until July 1, 2013. This situation began to be addressed on a retrospective basis with the enactment of Chapter 144, Laws of 2013, which provided state aid grant funds for 127 wastewater, drinking water and landfill closure projects identified on the NHDES "delayed and deferred" list of projects waiting for state aid grants. The General Court also recognized at that time that there were some eligible infrastructure projects that were not on the delayed and deferred list but met the same basic criteria as the 127 projects, and provided that those additional projects would be eligible for state aid grants subject to availability of funding. Specifically, such projects were described in Chapter 144, Laws of 2013 as follows: "Infrastructure projects that had local authorization by December 31, 2008, to construct but are not listed in section 101 are eligible for state aid grants subject to availability of funding." This latter set of projects is now referred to as the "Tier 2" projects.

Before NHDES could award grants to the then-identified eight Tier 2 projects based on available funds after funding the 127 projects, the Governor's November 24, 2014, Executive Order resulted in a reduction in the NHDES FY 2015 state aid grant budget. The Governor's proposed budget for FY2016/2017 (HB1) included \$825,933 to fund the eight then-identified Tier 2 projects in the current biennium. Unfortunately, this funding was cut during the House Finance Committee's deliberations on the budget and was not able to be restored in the Senate phase. Now, however, a funding mechanism has been identified, and HB 1428-FN-A-LOCAL as amended would appropriate state aid grant funding for years one and two for the eight Tier 2 projects previously mentioned and would temporarily establish an account within NHDES entitled "Clean Water State Revolving Fund (CWSRF); Non-Program Fund Account" for this purpose.

HB 1428-FN-A-LOCAL expressly provides that state aid grant payments for fiscal year 2016 and 2017 for these eight projects will be made in fiscal year 2017 and shall not lapse until June 30, 2017.

The non-program funds that would be used to make these grant payments will come from funds collected through the repayment of prior CWSRF loans. The use of loan repayment dollars is restricted by EPA rules and has traditionally been used for making new loans through the CWSRF program and for certain allowable administrative purposes relating to the CWSRF program. NHDES recently became aware that, subject to EPA approval, it is possible to utilize some non-program funds for this type of grant. A cash flow analysis of the repayment fund account determined that these initial grants are manageable on a one-time basis. However, NHDES does not yet know whether such amounts could prudently be drawn from this fund in the future. Accordingly, this use of funds should be viewed as a one-time withdrawal and will

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be further analyzed in future budget cycles to ensure adequate and stable CWSRF accounts for the administration of a sustainable loan program. Careful thought must be given to the use of non-program funds. For the purposes of future planning, NHDES believes it is best to assume that these eight projects will be added to the existing state aid grant project list going forward.

NHDES believes that enactment of this bill would represent an important step in the continuing effort to help our cities and towns offset the high cost of environmental infrastructure that benefits the entire state. Please feel free to contact Eugene Forbes, Water Division Director, (271-3308, or Eugene.Forbes@des.nh.gov), or me (271- 2958, or Thomas.Burack@des.nh.gov), if you have any questions or need additional information.

Very truly yours,



Thomas S. Burack
Commissioner

cc: Sponsors of HB 1428-FN-A-LOCAL: Rep. Buco; Sen. Fuller Clark